

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 36729 of 2015 (M)

PETITIONER :

**M/S. PRISTINE ISLE RESORT PVT. LTD.,
KOVILAKAM, KODAMTHURUTH, KUTHIATHODU P.O.,
CHERTHALA, ALAPPUZHA DISTRICT
REPRESENTED BY ITS AUTHORIZED SIGNATORY ABDUL AZEEZ,
AGED 53 YEARS, (DIRECTOR, SALES AND OPERATION).**

BY ADV. SRI.KILLIYOOR P.GOPALAKRISHNAN NAIR

RESPONDENTS :

- 1. THE TAHSILDAR
TALUK OFFICE, CHERTHALA, ALAPPUZHA DISTRICT-688 524.**
- 2. THE DEPUTY TAHSILDAR (R.R.)
CHERTHALA, ALAPPUZHA DISTRICT-688 524.**

BY GOVERNMENT PLEADER SRI.R. RANJITH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE JUDGMENT DTD.13.8.2015 IN WPC NO.23947/2015 OF THIS HON'BLE COURT.
- P2 : COPY OF THE DEMAND DRAFT DTD.3.9.2015.
- P3 : COPY OF THE DEMAND DRAFT DTD.12.11.2015.
- P4 : COPY OF THE REPRESENTATION DTD.12.11.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P5 : COPY OF THE DEMAND NOTICE DTD.16.11.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.36729 of 2015

Dated this the 4th day of December 2015

JUDGMENT

The challenge in the writ petition is against Ext.P5 notice issued by the 1st respondent, demanding an amount of Rs.2,62,500/- towards recovery charges from the petitioner in connection with revenue recovery proceedings, that were initiated against the petitioner, by the 1st respondent. The contention of the petitioner in the writ petition is essentially that against the recovery steps initiated by the respondents, he had approached this Court through W.P.(C).No.23947/2015 and this Court by Ext.P1 judgment had granted the petitioner the facility of payment of the amount demanded to him, in three instalments. It is not in dispute that the petitioner complied with the directions in Ext.P1 judgment albeit belatedly. The contention of the petitioner is with regard to the recovery charges, that have since been demanded by the respondents, in connection with the recovery steps initiated by them, for recovering the amounts that were due from the petitioner.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that by Ext.P1 judgment, this Court had only granted the petitioner the facility of instalments to discharge his liability. The liability in turn pertains to defaulted luxury tax amounts, for which purpose the provisions of the revenue recovery Act had also been invoked by the respondents. Once the recovery steps were initiated by invoking the provisions of revenue recovery Act, then the respondents became entitled to collect all incidental charges in connection with the recovery proceedings initiated by them and the mere fact that this Court had by Ext.P1 judgment, granted the petitioner the facility of payment of the amounts demanded in instalments, it would not follow that the respondents also lost their right to collect, collection charges in connection with the recovery proceedings initiated by them. I, therefore, see no reason to interfere with Ext.P5 notice, in these proceedings under Article 226 of the Constitution of India.

The writ petition in its challenge against Ext.P5 notice therefore fails, and is accordingly dismissed.

Counsel for the petitioner would pray for some time to discharge

his liability under Ext.P5 to the respondents. Taking note of the plea of financial hardship raised on behalf of the petitioner, I permit the petitioner to pay the amount of Rs.2,62,500/- by way of collection charges, in three equal and successive monthly instalments, commencing from 10.01.2016.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/